

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TRACY ANTHONY BARBER,

Plaintiff,

DECISION AND ORDER

19-CV-6684L

v.

STEUBEN COUNTY, et al.,

Defendants.

On January 12, 2021, the Court issued a Decision and Order in this case (Dkt. #5) granting the *pro se* plaintiff's request to proceed *in forma pauperis* ("IFP"), but dismissing the original and amended complaints without prejudice, on the ground that they failed to state a claim. The Court gave plaintiff leave to file a second amended complaint correcting the deficiencies in those complaints.

Plaintiff filed a second amended complaint on January 25, 2021 (Dkt. #6). He has continued to file amended complaints, without leave of court. His most recent, the eighth amended complaint, was filed on December 3, 2021 (Dkt. #25).

Neither that complaint, nor any of plaintiff's other amended complaints, are any better than the first, however. Plaintiff names three defendants, but it is impossible to determine what the nature of his claim is. He simply recites various statutes and legal terminology, with no apparent connection to any underlying facts or to each other. Plaintiff has also filed several other documents, none of which shed any more light on the nature of his "claim."

It is well settled that a district court has the power to—indeed, must—dismiss a case *sua sponte* where the complaint on its face fails to state a claim. *See* 28 U.S.C. § 1915(e)(2)(B)(ii); *Carmel v. CSH & C*, 32 F.Supp.3d 434, 435 (W.D.N.Y. 2014). In light of plaintiff’s repeated failures to set forth any valid, or even conceivable claim, dismissal with prejudice is appropriate here.

CONCLUSION

Plaintiff’s second through eighth amended complaints (Dkt. #6, #9, #10, #13, #14, #23, and #25) are dismissed for failure to state a claim upon which relief can be granted, and the action is dismissed with prejudice. Plaintiff’s motion for miscellaneous relief (Dkt. #24) is denied as moot.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer". The signature is fluid and cursive, with the first name "David" and last name "Larimer" clearly legible.

DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
December 14, 2021.